

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

AMERICAN ACADEMY OF
PEDIATRICS, *et al.*,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION, *et al.*,

Defendants.

Civil Action No. 8:18-cv-883-PWG

**DEFENDANTS' MOTION TO DISMISS
OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

For the reasons set forth in the accompanying memorandum of law, Defendants respectfully move to dismiss this action or, in the alternative, for summary judgment on all claims raised in Plaintiffs' complaint. *See* Fed. R. Civ. P. 12, 56.

Dated: August 7, 2018

Respectfully submitted,

Of counsel:

ROBERT P. CHARROW
General Counsel
Food and Drug Division
Office of General Counsel
U.S. Dep't of Health and Human Services

LOWELL J. SCHILLER
Acting Chief Counsel

ANNAMARIE KEMPIC
Deputy Chief Counsel for Litigation

WENDY S. VICENTE
Senior Counsel
Office of the Chief Counsel

BRETT A. SHUMATE
Deputy Assistant Attorney General

/s/ Eric Beckenhauer
ERIC B. BECKENHAUER
MICHELLE R. BENNETT
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. NW
Washington, DC 20530
(202) 514-3338
(202) 616-8470 (fax)
eric.beckenhauer@usdoj.gov

Counsel for Defendants

Food and Drug Administration
10903 New Hampshire Avenue
White Oak 31, Room 4562
Silver Spring, MD 20993-0002